

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHIKEB SADDOZAI,

Plaintiff,

v.

J. CEBALLOS, et al.,

Defendants.

No. 1:20-cv-00358-NONE-JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION

(Doc. No. 27)

Plaintiff Shikeb Saddozai is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 19, 2020, the assigned magistrate judge filed a screening order, finding that plaintiff's complaint fails to state a claim on which relief can be granted. (Doc. No. 11.) The magistrate judge directed plaintiff to file an amended complaint within 21 days. (*Id.* at 7-8.) On May 28, 2020, and July 10, 2020, the magistrate judge granted plaintiff two extensions of time to comply with the screening order because, according to plaintiff, his access to the prison law library was restricted. (Doc. Nos. 13, 19.)

Plaintiff failed to file an amended complaint within the time provided. Therefore, the magistrate judge issued an order to show cause why this action should not be dismissed due to plaintiff's failure to comply with a court order. (Doc. No. 20.) Based on plaintiff's response, the

1 magistrate judge discharged the order to show cause and granted plaintiff a third extension of
2 time on October 14, 2020. (Doc. No. 22.) On November 18, 2020, the magistrate judge granted
3 plaintiff a fourth extension of time to comply with the screening order. (Doc. No. 24.) Although
4 more than the allowed time has passed, plaintiff has failed to file an amended complaint.
5 Accordingly, on January 4, 2021, the magistrate judge filed findings and recommendations,
6 recommending that this action be dismissed due to plaintiff's failure to obey court orders and
7 failure to state a claim on which relief can be granted. (Doc. No. 27.) The findings and
8 recommendations were served on plaintiff and provided him 14 days to file objections thereto.
9 (*Id.* at 2.)

10 Plaintiff filed objections on January 15, 2021. (Doc. No. 28.) Therein, plaintiff states that
11 the "Courts [sic] pleadings contained ... authoritative citations ... that plaintiff cannot rebut
12 without access to prison law library repeatedly denied to plaintiff by prison officials while placed
13 in solitary confinement exceeding 24 hour lockdowns." (*Id.* at 1.) Plaintiff therefore requests an
14 extension of time, the appointment of counsel, and that the court provide him "each citation relied
15 on for argument." (*Id.*) That filing did not specify for what purpose he sought the requested
16 extension of time, though presumably it was related to the filing of an amended complaint.

17 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
18 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's
19 objections, the court finds the pending findings and recommendations to be supported by the
20 record and proper analysis. Despite receiving four extensions of time, plaintiff has failed to file
21 an amended complaint as directed by the magistrate judge's screening order. In his objections,
22 plaintiff implies that he cannot properly rebut the findings and recommendations because he does
23 not have access to the case law relied upon by the magistrate judge. (Doc. No. 28 at 1.)
24 However, access to case law is unnecessary for plaintiff to explain why he has failed to file an
25 amended complaint in the more than eight months since the screening order was issued in May of
26 2019. Plaintiff does not provide any such explanation.

27 In his November 12, 2020 motion for an extension of time, plaintiff stated that "due to
28 COVID-19-virus pandemic, prison facilities are on statewide lockdown." (Doc. No. 23.) The


1 court is aware that state prisons have implemented “modified programs,” which limit inmate
2 movement, since the onset of the COVID-19 pandemic. *See, e.g., Anderson v. Doe*, No. 1:20-cv-
3 01620-DAD-SAB, 2020 WL 7651978, at *2 (E.D. Cal. Nov. 19, 2020), *report and*
4 *recommendation adopted*, 2020 WL 7383644 (E.D. Cal. Dec. 16, 2020); *Coleman v. Newsom*,
5 No. 2:90-cv-00520-KJM-DB, 2020 WL 2306570, at *4 (E.D. Cal. May 8, 2020). Plaintiff,
6 though, does not contend that he has had *no* access to his prison’s law library over the past eight
7 months (as opposed to limited access), or that he has had no access during the preceding two
8 months since the magistrate judge granted his fourth extension of time. Nor has plaintiff
9 explained why law library access is necessary to his filing of an amended complaint in light of the
10 guidance provided to him by the screening order. Rather, it appears that plaintiff has simply
11 neglected to prosecute this action.

12 Accordingly,

- 13 1. The findings and recommendations issued on January 4, 2021 (Doc. No. 27) are
14 adopted in full;
- 15 2. This action is dismissed for plaintiff’s failure to obey court orders and failure to
16 state a claim; and,
- 17 3. The Clerk of the Court is directed to assign a district judge to this action for
18 purposes of closure and to close this case.

19 IT IS SO ORDERED.

20 Dated: **February 12, 2021**

21 
UNITED STATES DISTRICT JUDGE